

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRIAN HOWE,

Defendant.

No. CR05-3028-MWB

**ORDER ACCEPTING MAGISTRATE  
JUDGE'S REPORT AND  
RECOMMENDATION REGARDING  
DEFENDANT'S GUILTY PLEA**

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***I. INTRODUCTION AND BACKGROUND***

On January 11, 2006, a second superseding indictment was returned against defendant Brian Howe, charging defendant with possessing with intent to distribute methamphetamine and cocaine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), and 841(b)(1)(C), manufacturing, attempting to manufacture, and aiding and abetting an attempt to manufacture five grams or more of pure methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), 846 and 18 U.S.C. § 2, possession of firearms by an unlawful user of controlled substances, in violation of 18 U.S.C. §§ 922(g)(3) and 924(a)(2), and distributing and aiding and abetting the distribution of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 18 U.S.C. § 2. On March 31, 2006, defendant appeared before United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Counts 1 and 3 of the second superseding indictment. On this same date, Judge Zoss filed a Report and Recommendation in which he recommends that defendant's guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The court, therefore, undertakes the necessary review of Judge Zoss's recommendation to accept defendant's plea in this case.

## **II. ANALYSIS**

Pursuant to statute, this court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

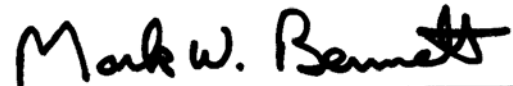
28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made, as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b). In this case, no objections have been filed, and it appears to the court upon review of Judge Zoss's findings and conclusions, that there is no ground to reject or modify them. Therefore, the court **accepts** Judge Zoss's Report and Recommendation of March 31, 2006, and accepts defendant's plea of guilty in this case to Counts 1 and 3 of the second superseding indictment.

**IT IS SO ORDERED.**

**DATED** this 31st day of March, 2006.



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MARK W. BENNETT  
CHIEF JUDGE, U. S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA